D. EXCLUDED RESOURCES

WAC 388-470-0020 Excluded resources.

Resources that do not count toward a cash, medical or food assistance client's resource limit are:

(1) Burial plot:

(a) For cash assistance and TANF/SFA-related medical programs other than SSI-related, one burial plot for each assistance unit member is excluded.

(b) For food assistance, one burial plot for each assistance unit member including ineligible members is excluded.

(c) For SSI-related medical the limits are described in WAC 388-470-0040(14) and (15).

(2) Energy assistance payments;

(3) Household goods such as furniture;

(4) Noncash Resources are excluded for categorically needy (CN) and medically needy (MN) medical programs when the client:

(a) Cannot convert the noncash resource to cash within twenty work days; and

(b) Makes an ongoing attempt to convert the noncash resources to cash.

(5) Personal items such as clothing is excluded. For cash assistance programs, personal property of "great sentimental value" can be excluded due to personal attachment or hobby interest, without consideration to its value;

(6) The value of a sales contract is excluded for TANF-related medical. Sales contracts for SSI-related medical are described in WAC 388-470-0040;

(7) Resources excluded by federal law;

(8) Trust accounts when not available to the assistance unit except as specified in

WAC 388-470-0015(2).

CLARIFYING INFORMATION

See Appendix I for resources that are excluded by federal law.

WAC 388-470-0025 Excluded resources for cash assistance.

The following resources do not count toward the resource limits for cash assistance:

(1) Adoption support payments when the adopted child is excluded from the assistance unit.

(2) Bona fide loans which means the loan is a debt a client owes and has an obligation to repay.

(3) Earned income tax credit and advance earned income tax credit in the month received and the following month.

(4) Excess real property on which a client is not living:

  (a) When, for a period not to exceed nine months, a client:

    (i) Makes a good-faith effort to sell the excess property; and

    (ii) Signs an agreement to repay the amount of benefits received or the net proceeds of the sale, whichever is less.

  (b) Upon cash assistance approval, the agreement to repay is sent to office of financial recovery to file a lien without a specified amount; or

  (c) Is used in a self-employment enterprise and meets the criteria in subsection (10) of this section.

(5) Food coupon allotment from the food assistance programs.

(6) Food service payments provided for children under the National School Lunch Act of 1966, PL 92-433 and 93-150.

(7) Foster care payments provided under Title IV-E and/or State foster care maintenance payments.

(8) Housing and Urban Development (HUD) community development block grant funds.

(9) Income tax refunds are excluded in the month the refund is received.

(10) A bank account jointly owned with an SSI recipient when SSA counted the funds to determine the SSI recipient's eligibility.

(11) Real and personal property used in a self-employment enterprise if:

  (a) The property is necessary to restore the client's independence or will aid in rehabilitating the client or the client's dependents;

  (b) The client has an approved self-employment plan; and

  (c) For WorkFirst participants, the self-employment enterprise is a component of the participant’s approved Individual Responsibility Plan (IRP).

(12) Retroactive cash benefits or TANF benefits resulting from a court order modifying a department policy.

(13) Self-employment-accounts receivable that a client bills to the client's customer but has been unable to collect.

(14) SSI recipient's income and resources.

CLARIFYING INFORMATION

Real and Personal Property Used in a Self-employment Enterprise

1. Examples of real or personal property used in a self-employment business include:

   a. Farm Land;

   b. Farm Machinery;

   c. Livestock;

   d. Business Equipment; and

   e. Business Inventory.

2. See the WorkFirst Implementation Handbook for developing the IRP for a self-employed WorkFirst participant.

3. For non-WorkFirst participants, an approved self-employment plan must include the following:

   a. A time frame that the client's business will produce enough income to reduce the assistance unit's need for cash assistance;

   b. A requirement for the client to give the department adequate verification to verify the business's assets and expenses on a monthly basis. See: **INCOME**;

   c. A statement of understanding between the client and the department that the real and personal property of the business will be excluded as long as there is an agreed plan.

   d. If the client does not sign an agreed plan, the value of all real and personal property of the business will count toward the assistance unit's resource limit.

WORKER RESPONSIBILITIES

Excess Real Property

1. Excess real property is property which a client owns but does not use as their residence.

2. To approve cash assistance for a client with excess real property which cannot be excluded as needed for self-employment, the client must sign the DSHS 18-409, Agreement/Promissory Note, and provide the department with a copy of the legal description of the property.

3. The client is ineligible for cash assistance when:

   a. The client fails to make a good faith effort to sell the property;

   b. The property is sold and the client's resources exceed the resource limit; or

   c. The client has received cash assistance for 9 months and the property has not sold.

4. Create an alert for the third and sixth month of eligibility to review:

   a. The status of the property; and

   b. If the client is actively attempting to sell the property.

5. Create an alert for the ninth month to terminate the client's cash benefits, if the property has not been sold.

Effective December 1, 2000

WAC 388-470-0026 Excluded resources for family medical programs.

"Continuously eligible" means, for the purposes of this chapter, eligible without a period of ineligibility of a calendar month or more since the date of receipt of any resources that would cause the client to exceed the resource limit of a family medical program.

(1) The department does not count any increase in a client's resources when the increase is received while a client:

   (a) Is eligible for and receiving coverage under the family medical program; and

   (b) Remains continuously eligible for a family medical program.

(2) The department will no count the resource increase for a client:

   (a) Who meets the requirement of subsection (1)(a) of this section;

   (b) Whose family medical program is terminated; and

(c) Who is subsequently determined eligible for all months since the termination, which may include a retroactive period of up to three months.

(3) The department counts the resources when the client is ineligible for a family medical program for a full calendar month or more except as described in subsection (2) of this section.

(4) For the purposes of this section, family medical programs include the medical extension benefits as described in WAC 388-523-0100.

CLARIFYING INFORMATION

Family medical programs include the following medical coverage groups:

F01	For families who also receive TANF or SFA cash
F02	Medical extensions for families whose earned income has increased above the CNIL
F03	Medical extensions for families whose child or spousal support has increased above the CNIL
F04	For families who receive medical without cash
F09	Far an alien determined eligible under the Alien Emergency Medical program

1. When a family is receiving medical benefits under any of the medical coverage groups listed above, any increase in countable resources while the family continues to receive medical benefits does not count.

2. There is no limit on the number of certification periods a family can receive the resource exclusion.

3. The family remains eligible for the resource exclusion even if the client has a break between certification periods when:

   (a) The family was eligible for and receiving a family medical program when the resources increased; and

   (b) Is determined eligible for all the months since the end of the last certification period.

Examples of Families Eligible for the Resource Exclusion

EXAMPLE 1

A family applies for TANF cash and medical (F01) and is determined eligible. The family reports an increase in resources. The family in ineligible for Cash TANF due to excess resources. The medical trickles to F04 through the end of the 12-month certification period (based on the last application, completed eligibility review or food assistance review). At the end of the medical certification period, the family completes the eligibility review. While the family's resources continue to exceed the limit, the family meets all other eligibility criteria. Do not count the excess resources because the family has maintained continuous eligibility for a family medical program.

EXAMPLE 2

A family reports a planned move out of state and the medical is terminated effective the end of the month. On the 10^{th} of the following month, the family reapplies because they changed their mind about moving. Do not count the family's excess resources because the family is continuously eligible.

EXAMPLE 3

A family that previously reported an increase in resources does not complete an eligibility review at the end of the 12-month certification period. The ACES system stops the family's medical benefits. The family reapplies in the second month following the termination and requests retro coverage. The family continues to have excess resources but meet all other eligibility criteria. The family remains eligible for the resource exclusion because the family has been continuously eligible for a family medical program.

By finding the family eligible for all the months since termination including the retro period, the client meets the requirement of continuous eligibility.

EXAMPLE 4

A family's earned income increases and the family is not eligible for Cash TANF. They are eligible for a medical extension under F02. At the end of the certification period, the family completes an eligibility review. The family income has decreased under the F04 standard but the family resources now exceed the standard. The family continues to receive the resource exclusion because they have been continuously eligible for a family medical extension under F02. At the end of the certification period, the family completes an eligibility review. The family income has decreased under the F04 standard but they have resources exceeding the standard. The family continues to receive the resource exclusion because they have been continuously eligible for a family medical program.

EXAMPLE 5

An undocumented family applies for medical benefits. The family meets the eligibility requirements for F04 medical, except citizenship requirements. Only the father has an emergent medical condition. His certification period under the Alien Emergency Medical Program (F09) is for three months. During that period, he receives a cash insurance settlement from his accident. At the end of the 3-month period, he may be certified for another 3-month period because he continues to have an emergent medical condition and meets all other eligibility criteria. Do not count his excess resources because he has been continuously eligible for a family medical program.

Examples of Families Not Eligible for the Resource Exclusion

EXAMPLE 1

A family does not complete an eligibility review at the end of the certification period. The ACES system stops the family's medical benefits. The family reapplies five months later and requests retro medical for the three months before the month of application. The family continues to have excess resources. The family is ineligible for F04 because of excess resources. The family is ineligible for F04 because of excess resources in the retro period and the month of application. The department counts the resources because the family is ineligible for a full calendar month or more. The family does not meet the requirement of continuous eligibility necessary to receive the resource exclusion.

NOTE: Should the family apply again and have resources under the standard, the family could be F04 eligible. If the family's resources again increase over the standard, allow the family the resource exclusion as long as the family is continuously eligible for a family medical program.

EXAMPLE 2

A mother and child are receiving F04 medical. The mother's resources increase while she is receiving family medical. She loses custody of her child in 5/01. The department continues the mother's medical coverage in 6/01 during the redetermination process. Mom is determined ineligible for any medical program effective 6/10/01. Mom regains custody of her child and reapplies for medical in 7/01, because she did not have custody of her child. Count the resources because the family is ineligible for a full calendar month or more. The family no longer meets the requirement of continuous eligibility necessary to receive the resource exclusion.

WAC 388-470-0030 Excluding a home as a resource.

(1) For cash and TANF-related medical assistance programs a home with a reasonable amount of surrounding property is excluded when the home is owned and used as a resident by the client or the client's dependents.

(2) If a client and his or her dependents are absent from the home for more than ninety consecutive days, the total value of the home will count toward the resource limit, unless the absence is due to:

(a) Hospitalization; or

(b) Other health reasons; or

(c) A natural disaster.

(3) If the absence is due to hospitalization or other health reasons the client may be absent for more than ninety days and continue to have the home excluded as a resource when:

(a) At least one of three physicians provides a written statement that in their medical opinion, the client can return to the home during the client's lifetime; or

(b) The home continues to be occupied by a spouse or dependent children or children with disabilities.

(4) If the absence is due to a natural disaster the client may be absent for more than ninety days and continue to have the home excluded as a resource when:

(a) The home is not fit to live in; and

(b) The home will become fit to live in with reasonable effort and expense to the client.

CLARIFYING INFORMATION

Home includes (when used as part of the home):

1. Yard and home garden space;

2. Road to get to the home or easement;

3. Right of way to and land holding a water supply; and

4. Outbuildings and the land on which they are located.

WAC 388-470-0035 Excluded resources for food assistance.

The following resources do not count toward a client's resource limit.

(1) Earned income tax credit is excluded:

(a) In the month it is received and the following month if the person was not a food assistance recipient when the credit was received; or

(b) For twelve months when the person:

(i) Was a food assistance recipient when the credit was received; and

(ii) Remains a food assistance recipient continuously during this period.

(2) Essential property needed for employment or self-employment of a household member is excluded. Property excluded under this section and used by a self-employed farmer or fisher retains its exclusion for one year after the household member stops farming or fishing.

(3) Excluded funds that are deposited in a bank account with countable funds continue to be excluded up to six months from the date of deposit.

(4) Governmental disaster payments to repair a damaged home when the household can be sanctioned if the funds are not used for this purpose.

(5) A home a client is living in including the surrounding property that is not separated by property owned by others is excluded. Public right of ways do not affect this exclusion;

(6) A home that the household is not living in and surrounding property is excluded if the household:

(a) Is making a good faith effort to sell; or

(b) Is planning to return to the home and it is not occupied due to:

(i) Employment;

(ii) Training for future employment;

(iii) Illness; or

(iv) Unlivable conditions caused by a natural disaster or casualty.

(7) Any other property is excluded if the household:

(a) Has offered the property for sale through a professional real estate broker; and

(b) Has not declined an offer equivalent to fair market value.

(8) Indian lands that are held jointly by the tribe or can be sold only with the approval from the Bureau of Indian Affairs (BIA) are excluded;

(9) Installment contracts:

(a) Installment contracts or agreements for the sale of land or property are excluded when they are producing income consistent with their fair market value;

(b) Value of property sold under an installment contract or held for security is excluded if the purchase price is consistent with fair market value.

(10) Insurance policies and pension funds:

(a) Cash value of life insurance policies and pension funds, except IRAs and Keogh Plans, are excluded.

(b) Prepaid burial plans are excluded when the plan:

(i) Is death insurance as opposed to a bank account; and

(ii) Requires repayment for allowable withdrawals.

(11) Land. Where a client plans to build a permanent home or is excluded where their property is not separated by land owned by others. The land is countable if the assistance unit owns another home.

(12) A resource is excluded when it is owned by an assistance unit member who receives TANF/SFA or SSI.

(13) Resources that are owned by persons who are not members of the household are excluded.

(14) A resource is excluded when, if it is sold, would only result in a gain to the household of one-half of the applicable resource limit as defined under WAC 388-470-0005. The resource must be something other than stocks, bonds, negotiable financial instruments, or a vehicle.

(15) Prorated income for self-employed persons or ineligible students. These monies retain their exclusion for the period of time the income is prorated even when commingled with other funds.

(16) Real or personal property when:

(a) It produces yearly income that is equal to its fair market value even when used only on a seasonal basis;

(b) Secured by a lien for a business loan and the lien prevents the household from selling it; or

(c) It is directly related to the maintenance or use of a vehicle excluded in WAC 388-470-0075.

WORKER RESPONSIBILITIES

1. **Burial Insurance, Trusts, and Pre-Purchase Plans**

Exclude irrevocable agreements or policies regardless of value.

2. **Earned Income Tax Credit**

Consider continuous participation through administrative breaks such as:

a. Missing deadlines;

b. Late recertifications; or

c. Late or missing monthly reports.

3. **The home**

a. Allow this exclusion without regard to:

(1) Size of property or number of acres;

(2) Ability to subdivide the property; or

(3) Number of tax statements which the household receives for the property.

b. Count other houses on the property as a resource unless they can be excluded under other property rules in this section.

c. Exclude buildings on the surrounding property (except other houses) even if:

(1) They could be rented; or

(2) Household members are living in them such as a garage because of limited space in the home.

4. **Pension Funds**

Exclude pension funds, except Keogh plans and IRA’s, regardless of the client’s current employment status.

5. **Household Member Who Receives TANF/SFA or SSI**

Exclude resources for recipients of TANF/SFA or SSI even when the recipient is not a member of a categorically eligible household.

For example: A TANF recipient has a $900 savings account. The recipient resides and purchases and prepares food with a person who does not receive cash assistance and has a $1400 savings account.

Although the food assistance unit is not categorically eligible, exclude the TANF recipient's savings account when determining resource eligibility.

6. **Income Producing Property**

   a. Determine the amount of income similar property produces for the same use. Obtain this information from local sources such as real estate agencies, Small Business Administration, Farmers Home Administration, or other knowledgeable sources.

   b. The household may present other information when they question the local sources.

WAC 388-470-0040 Additional excluded resources for SSI-related medical assistance.

In addition to other SSI-related resource exclusions in this chapter the resources in this section are excluded when a client's eligibility for SSI-related medical assistance is determined.

(1) A client's household goods and personal effects are excluded.

(2) One home, which may be any shelter in which the client has ownership interest, is excluded when:

(a) The client uses the home as the principal place of residence;

(b) The client's spouse resides in the home; or

(c) The client does not currently live in the home and the client:

(i) Intends to return to the home; and

(ii) Provides the department with an oral or written statement of their intent to return; or

(d) A relative resides in the home when:

(i) The relative is financially or medically dependent on the client; and

(ii) The client or dependent relative provides the department with a written statement of the dependency.

(3) Proceeds, including cash or a sales contract, from the sale of the home described in subsection (2) of this section are excluded when the client purchases another home within three months of receipt of the proceeds of the sale. Only the portion of the sales contract payment which represents interest is counted as unearned income. See WAC 388-450-0040.

(4) The value of a sales contract is excluded:

(a) When the current market value of the contract is zero or the contract is unsalable; or

(b) When combined with other resources, it exceeds the resource limit, and the sales contract was executed:

(i) On or before November 30, 1993; or

(ii) On or after December 1, 1993, and:

(A) Was received as compensation for the sale of the client's principle place of residence;

(B) Provides interest within the prevailing interest rate at the time of the sale;

(C) Requires the repayment of a principal amount equal to the fair market value of the property; and

(D) Payment on the amount owed does not exceed thirty years.

The income a client receives which represents the principle and interest portion of a sales contract meeting the definition of this subsection is counted as unearned income. See WAC 388-450-0040.

(5) A sales contract is a nonexcluded resource when:

(a) It does not meet the conditions in subsection (4); or

(b) The client transferred it to someone other than the client's spouse. See WAC 388-513-1365.

(6) When a client owns a sales contract as described in subsection (5), the portion of the payment which represents the:

(a) Principle is counted as an available resource; and

(b) Interest is counted as unearned income.

(7) The equity value of one vehicle up to five thousand dollar is excluded. The five thousand dollars limitation does not apply when the client or a member of the client's household, uses the vehicle which is:

(a) Necessary for employment; or

(b) Necessary for the treatment of specific or regular medical problem; or

(c) Modified for operation by, or transportation of, a person with disabilities; or

(d) Necessary due to climate, terrain, distance, or similar factors to provide the client transportation to perform essential daily activities.

(8) Property which is essential to self-support is excluded when:

(a) The client uses the property for an income producing activity:

(i) In a trade or business; or

(ii) As an employee for work.

(b) The client uses nonbusiness property with a value up to six thousand dollars in equity, to produce:

(i) Goods or services essential to daily activities, solely for the client's household;

(ii) An annual income return of six percent or more of the exempt equity; or

(iii) A six percent return within a twenty-month period when the client uses the property, or is expected to resume using the property within twelve months, for the activities described in this subsection.

(9) Resources necessary for a client, who is blind or disabled, to enable them to fulfill an approved self-sufficiency plan are excluded.

(10) Alaska Native Claims Settlement Act benefits are excluded, including:

(a) Shares of stock held in a regional or village corporation;

(b) Cash or dividends on stock received from a native corporation up to two thousand dollars per person per year;

(c) Stock issued by a native corporation as a dividend;

(d) A partnership interest;

(e) Land or an interest in land; and

(f) An interest in a settlement trust.

(11) The total cash surrender value (CSV) of a life insurance policy or policies when the total face value of all policies held by the client is fifteen hundred dollars or less are not counted. The CSV of a client's policies in excess of fifteen hundred dollars is applied to the client's resource limit as described in WAC 388-478-0070 and 388-478-0080.

(12) Restricted allotted land owned by an enrolled tribal member and spouse, if the land cannot be disposed of without the permission of the other person, the tribe, or an agency of the federal government is not counted.

(13) A settlement the client receives for the purpose of repairing or replacing a specific excluded

resource is not counted for a period of:

(a) Nine months when the client uses the total amount of the cash to repair or replace the excluded resource;

(b) Nine additional months when:

(i) Circumstances beyond the control of the client prevent the repair or replacement of the excluded resource; and

(ii) The client uses the total amount of the cash to repair or replace the excluded resource.

(c) Twelve additional months, for a maximum of thirty months, when:

(i) The settlement is a result of a catastrophe which is declared a major disaster by the President of the United States;

(ii) The excluded resource is geographically within the disaster area as defined by the presidential order;

(iii) The client intends to repair or replace the excluded resource; and

(iv) Circumstances beyond the control of the client prevented the repair or replacement of the excluded resource in the time frames described under subsection (13)(a) and (b) of this section.

(d) Except, any settlement excluded and not used within the allowable time period as described under this subsection as an available resource.

(14) Burial spaces for the client and any member of the client's immediate family, as described in subsection (16) are not counted. Burial spaces include:

(a) Conventional grave sites;

(b) Crypts;

(c) Mausoleums; or

(d) Urns and other repositories customarily used for the remains of deceased persons.

(15) A burial space purchase agreement is also defined as a burial space. The value of the purchase agreement is excluded, as well as any interest accrued on the purchase agreement, which is left to accumulate as part of the value of the burial space purchase agreement.

(16) Immediate family, for purposes of subsection (14) of this section includes the client's:

(a) Spouse;

(b) Minor and adult children, including adopted and stepchildren;

(c) Siblings;

(d) Parents and adoptive parents;

(e) Spouses of any of the above.

(f) None of the family members listed above need to be dependent upon or living with the client, to be considered immediate family members.

(17) The following types of burial funds are excluded as resources:

(a) Up to fifteen hundred dollars each for a client or a client's spouse when funds are specifically set aside solely for burial expenses;

(b) A revocable burial contract, burial trust, cash, account, or other financial instrument with a definite cash value; and

(c) Any interest earned and appreciation in the value of excluded burial funds when left to accumulate and become part of the burial fund.

(18) Funds which a client has specifically set aside solely for burial expenses, as described in subsection (17) of this section are funds which:

(a) Are kept separate from all other resources except nonexcluded funds the client intends to use solely for burial related items or services and identified as a burial fund; and

(b) May be designated as burial funds back to the first day of the month in which the person intended the funds to be set aside for burial.

(19) The limitation described under subsection (17)(a) of this section is reduced by:

(a) The face value of insurance polices owned by the client or spouse if the policies have been excluded as provided in subsection (11) of this section; and

(b) Amounts in an irrevocable burial trust.

(20) A client's burial funds lose excluded status when:

(a) They are mixed with other resources; or

(b) The burial funds, interest, or appreciated values are used for other purposes. These funds are then considered available income:

(i) On the first of the month of use; if

(ii) When added to other nonexcluded resources, the amount exceeds the resource limit as described in WAC 388-478-0080.

(21) All resources specifically excluded by federal statute are not counted.

(22) Retroactive SSI payments, including benefits a client receives under the interim assistance reimbursement agreement with the Social Security Administration, or Social Security Disability Insurance (OASDI) payments are excluded for six months following the month of receipt. This exclusion applies to:

(a) Payments received by the client, spouse, or any other person the client is financially responsible for;

(b) SSI payments made to the client for benefits due for a month before the month of payment;

(c) OASDI payments made to the client for benefits due for a month that is two or more months before the month of payment; and

(d) Payments held as cash, in a checking account, or in a saving account. This exclusion does not apply once the payments have been converted to any other type of resource.

(23) Cash payments an SSI recipient receives from a medical or social service agency to pay for medical or social services are excluded for one calendar month following the month of receipt.

(24) Payments from the Dutch government under the Netherlands' Act on Benefits for Victims of Persecution (WUV) are excluded. Interest earned on these payments is counted as unearned income as specified under chapter 388-450 WAC.

(25) Payments to survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act are excluded. Interest earned on these payments is counted as unearned income as specified under chapter 388-450 WAC.

(26) Earned income tax credit refunds and payments are excluded as resources during the month of receipt and the following month.

(27) Payments from a state administered victim's compensation program are excluded for a period of

nine calendar months after the month of receipt.

(28) Payments under section 500 through 506 of the Austrian General Social Insurance Act are not counted as a resource or income when a client's eligibility or post-eligibility (for institutionalized clients) is determined. A post-eligibility determination is the process of determining a client's share of the cost of institutional or waivered services care.

Any interest earned on the payments in this subsection is counted as unearned income as specified under WAC 388-450-0025.

(29) Payments from Susan Walker v. Bayer Corporation, et al., 96-c-5024 (N.D. Ill.) (May 8, 1997) settlement funds are excluded. Any interest earned on these payments is counted as unearned income as specified under WAC 388-450-0025.

(30) Cash received from the sale of an excluded resource is not counted when it is:

(a) Used to replace an excluded resource; or

(b) Invested in an excluded resource within the same month, unless specified differently under this section.